

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/466,607 06/06/95 WHITESIDE

L 952393

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33M1/0911

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ART UNIT

PAPER NUMBER

3

3308

DATE MAILED: 09/11/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice of Draftsman's Patent Drawing Review, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, PTO-152.
5.  Information on How to Effect Drawing Changes, PTO-1474.
6.  \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1.  Claims 1-15 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2.  Claims \_\_\_\_\_ have been cancelled.
3.  Claims \_\_\_\_\_ are allowed.
4.  Claims 1-15 are rejected.
5.  Claims \_\_\_\_\_ are objected to.
6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.
7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8.  Formal drawings are required in response to this Office action.
9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).
11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).
12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14.  Other

**35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 11-15 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Tronzo (4,681,589). See figures 4-5. The soft plastic insert has rings 48 and 50 which lock into grooves 52 and 54 on the meal shell, sealing and interlocking the insert and shell.

In regards to claim 11, 48 is interpreted as the seal and 50 and 54 are the interlock components.

**35 U.S.C. § 103**

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same

person or subject to an obligation of assignment to the same person.

Claims 7-10 are rejected under 35 U.S.C. § 103 as being unpatentable over Tronzo (4,681,589) in view of Muller et al (4,936,861).

Tronzo discloses the invention substantially as claimed. However, Tronzo is silent in regards to using peripheral tabs or notches on the liner or shell. Muller et al teaches the use of tabs (projections 14) and notches (grooves 15) on an acetabular implant. It would have been obvious to one having ordinary skill in the art to have utilized the tabs and notches of Muller et al with the implant of Tronzo for a means of securing the shell in a nonrotatable manner.

#### **35 U.S.C. § 112, SECOND PARAGRAPH**

Claim 10 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 10, "protruding lips" is indefinite.

#### **PRIOR ART MADE OF RECORD**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Adrey et al: note figures 4-6.

Note the following: Jean-Jacques, Zurcherstrasse, MacCollum et al, Schryver et al, and Averill et al.

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Art Unit: 3308

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Any inquiry concerning this communication should be directed to Bruce Snow whose telephone number is (703) 308-3255.



B. Snow

August 29, 1995



DAVID H. WILLSE  
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